



City of Marietta Meeting Agenda

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

CITY COUNCIL

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, July 8, 2009

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

Council member Philip M. Goldstein, Ward 7

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

PROCLAMATIONS:

20090717 Parks and Recreation Month

Presentation of a Proclamation to Rich Buss, designating July as "Parks and Recreation Month."

ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:

CONSENT AGENDA:

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

* 20090708 Regular Meeting - June 10, 2009

Review and approval of the June 10, 2009 regular meeting minutes.

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

ORDINANCES:

20090600 Z2009-11 Judson C. Thompson 553 East New Salem Commons

Z2009-11 [REZONING] JUDSON C. THOMPSON request rezoning for property located in Land Lot 02880, District 20, Parcels 21 and 34, 2nd Section, Marietta, Cobb County, Georgia and being known as 553 East New Salem

Commons from R-20 [Single Family Residential (Cobb County)] to R-1 [Single Family Residential (City)]. Ward 4.

Planning Commission recommends approval w/stipulation

Vote: 6 - 0 - 0

Stipulation: The driveway from East New Salem Commons be paved and the grade to the spillway be flattened out to be accessible by normal vehicles.

PUBLIC HEARING (all parties are sworn in)

20090601 A2009-02 Judson C. Thompson 553 East New Salem Commons

A2009-02 [ANNEXATION] JUDSON C. THOMPSON request annexation for property located in Land Lot 02880, District 20, Parcels 21 and 34 and being known as 553 East New Salem Commons, 2nd Section, Cobb County, Georgia consisting of 1.98 acres. Ward 4.

Planning Commission recommends approval

Vote: 6 - 0 - 0

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

20090602 CA2009-04 Judson C. Thompson 553 New Salem Commons

CA2009-04 [CODE AMENDMENT] JUDSON C. THOMPSON in conjunction with the requested annexation of property located in Land Lot 02880, District 20, Parcels 21 and 34, 2nd Section, Marietta, Cobb County, Georgia, and being known as 553 East New Salem Commons, the City of Marietta proposes to designate the Future Land Use of said property as LDR (Low Density Residential). Ward 4.

Planning Commission recommends approval

Vote: 6 - 0 - 0

Motion: Mr. Kinney made a Motion, seconded by Mrs. Sonnenfeld, to recommend to City Council that the Future Land Use designation be Low Density Residential.

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

20090603 Z2009-12 City of Marietta (for Vickley L. Raeford) 1388 Canton Highway

Z2009-12 [REZONING] CITY OF MARIETTA (FOR VICKLEY RAEFORD) request rezoning for property located in Land Lot 08740, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia and being known as a portion of 1388 Canton Highway from GC [General Commercial (County)] to CRC [Community Retail Commercial (City)]. Ward 6.

Planning Commission recommends approval

Vote: 6 - 0 - 0

Motion: Mr. Kinney made a Motion, seconded by Mrs. Sonnenfeld, to recommend to City Council the rezoning change, as submitted, to CRC (Community Retail Commercial) in the city.

Stipulation: n/a

PUBLIC HEARING (all parties are sworn in)

20090604 A2009-03 City of Marietta (for Vickley L. Raeford) 1388 Canton Highway

A2009-03 [ANNEXATION] CITY OF MARIETTA (FOR VICKLEY RAEFORD) request annexation for property located in Land Lot 08740, District 16, Parcel 0290 and being known as a portion of 1388 Canton Highway, 2nd Section, Cobb County, Georgia consisting of 0.08 acres. Ward 6.

Planning Commission recommends approval

Vote: 6 - 0 - 0

Motion: Mr. Kinney made a Motion, seconded by Mrs. Sonnenfeld, to recommend to City Council that this property be annexed, as submitted.

Stipulation: n/a

PUBLIC HEARING REQUIRED (all parties sworn in)

20090605 CA2009-05 City of Marietta (for Vickley Raeford) 1388 Canton Highway

CA2009-05 [CODE AMENDMENT] CITY OF MARIETTA (FOR VICKLEY RAEFORD) in conjunction with the requested annexation of property located in Land Lot 08740, District 16, Parcel 0290, 2nd Section, Marietta, Cobb County, Georgia, and being known as a portion of 1388 Canton Highway, the City of Marietta proposes to designate the Future Land Use of said property as IW (Industrial Warehousing). Ward 6.

Planning Commission recommends approval

Vote: 6 - 0 - 0

Motion: Mr. Kinney made a Motion, seconded by Mrs. Sonnenfeld, to recommend to City Council that the Future Land Use be designated as IW (Industrial Warehousing).

Stipulation: n/a

PUBLIC HEARING (all parties sworn in)

20090606 Z2009-13 MRW Properties, LLC 313 Marble Mill Road

Z2009-13 [SPECIAL LAND USE PERMIT] MRW PROPERTIES, LLC request Special Land Use Permit (to operate a plastic recycling facility) for property located in Land Lot 1005, District 16, Parcel 28, 2nd Section, Marietta, Cobb County, Georgia and being known as 313 Marble Mill Road and being zoned HI (Heavy Industrial). Ward 5.

Planning Commission recommends approval w/stips

Vote: 4 - 2 - 0 (Mrs. Watkins and Chairman Dollar opposed)

Motion: Mr. Kinney made a Motion, seconded by Mr. Gillis, to recommend to City Council to grant the Special Land Use Permit

Stipulation: The use be exactly as described. Mr. Kinney recommended to the applicant that they be prepared to provide a truly accurate description in their presentation to City Council.

PUBLIC HEARING (all parties sworn in)

* **20090672 Code Enforcement - 97 Rigby Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 97 Rigby Street.

Listed Owner: Louise Burke & Heirs at Large, c/o Hattie Scott

Repeat Violation History: (4) previous cases since 2000

Certified mail receipt received 06-03-09; signed by William Scott.

Taxes paid: Unpaid, in the amount of \$231.67.

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

* **20090673 Code Enforcement - 351 McArthur Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 351 McArthur Drive.

Listed Owner: Timothy Neal Weddington

Repeat Violation History: (3) previous cases since July, 2008.

Certified mail receipt not received as of 06/29/09; NOTE: refused previous letter in previous case.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

* **20090674 Code Enforcement - 353 McArthur Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 353 McArthur Drive.

Listed Owner: Timothy Neal Weddington

Repeat Violation History: (3) previous cases since July, 2008

Certified mail receipt not received as of 06/29/09; NOTE: previous case letter refused.

Taxes paid: Yes

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

-
- * **20090679 Code Enforcement - 1725 Crestridge Drive**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1725 Crestridge Drive.
Listed Owner: Rhodes John W Jr. & Kathleen
Repeat Violation History: (18) previous cases since 08/11/98
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20090682 Code Enforcement - 113 Lacy Street**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 113 Lacy Street.
Listed Owner: Roselane Professional Group LLC
Repeat Violation History: (2) previous cases since 06/25/08.
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20090684 Code Enforcement - 521 Little Street**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 521 Little Street.
Listed Owner: Enrique Z. Santiago
Repeat Violation History: None
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20090685 Code Enforcement - 1261 William Robert Drive**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1261 William Robert Drive.
Listed Owner: Ramon & Maria Mandujano
Repeat Violation History: (1) previous case since 04/30/09
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20090686 Code Enforcement - 1663 Barrington Overlook**
- An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1663 Barrington Overlook.

Listed Owner: Taesha McLean
Repeat Violation History: (1) previous case since 2008.
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090688 Code Enforcement - 536 Alpine Way**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 536 Alpine Way.
Listed Owner: Sandra Callahan
Repeat Violation History: (2) previous cases since 1999.
Certified mail receipt received 06/08/09; NOT signed by owner.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090689 Code Enforcement - 600 Tom Read Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 600 Tom Read Drive.
Listed Owner: Webb Jason D
Repeat Violation History: (6) cases since September, 2007.
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090693 Code Enforcement - 1204 Scripps Court**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1204 Scripps Court.
Listed Owner: Alexis A. Mills
Repeat Violation History: (1) previous case since 06/12/99.
Certified mail receipt received 06/17/09; not signed by Officer of First Horizon Home Loans.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090694 Code Enforcement - 436 Powder Springs Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 436 Powder Springs Street.
Listed Owner: JWH Marietta LLC
Repeat Violation History: (3) previous cases since 11/20/07
Certified mail receipt not received as of 06/26/09.

Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090697 Code Enforcement - 1176 Roswell Road**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1176 Roswell Road.
Listed Owner: Suntrust Bank
Repeat Violation History: None
Certified mail receipt received 06/04/09; not signed by Officer or Registered Agent.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090699 Code Enforcement - 365 Pleasant Oak Court**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 365 Pleasant Oak Court.
Listed Owner: Cuacuil Esther
Repeat Violation History: (1) previous case since 11/27/07.
Certified mail receipt received 06/19/09; signature not legible.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090701 Code Enforcement - 1725 Spinks Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1725 Spinks Drive.
Listed Owner: Nabil Michael Mansour/Awatef T Mansour
Repeat Violation History: (2) previous cases since 12/04.
Certified mail receipt not received as of 06/26/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:**1. Economic/Community Development: Grif Chalfant, Chairperson***** 20090626 Opportunity Zones**

Approval of a Resolution of the Mayor and Council for the City of Marietta; to adopt an Urban Redevelopment Plan for three slum, blighted or underdeveloped areas within the City of Marietta, Georgia pursuant to the provisions of the Urban Development Law, O.C.G.A. Section 36-61-8; to approve an application for an opportunity zone for the area encompassed by such redevelopment plan pursuant to O.C.G.A. Section 48-7-40.1; to promote the public health, safety and welfare, and for other purposes.

PUBLIC HEARING REQUIRED

*** 20090636 CDBG Sub-Recipient Agreement**

Approval of a Resolution authorizing the execution of the FFY'09 CDBG Sub-Recipient Agreement with Cobb County.

*** 20090637 FFY'10 CDBG Project List**

Approval of a Resolution authorizing the submittal of the city's FFY 2010 CDBG Final Statement Projects List to Cobb County for inclusion in their submittal to the U.S. Department of Housing and Urban Development (HUD); and further, approving any additional CDBG FFY 2010 funds the city may receive from actions by Congress be allocated to neighborhood redevelopment/housing rehabilitation or as eligible per council direction for Public Service projects.

*** 20090652 Housing Choice Voucher Program (HCV)**

Approval of a Resolution authorizing acceptance of the FY2009 Housing Choice Voucher Annual Plan.

2. Finance/Investment: Annette Lewis, Chairperson**3. Judicial/Legislative: Philip M. Goldstein, Chairperson***** 20090620 Revised Detailed Plan for North Metro Church**

Motion to approve the revised Detailed Plan for North Metro Church to allow for a new parking lot exit, with gate, onto Barrett Parkway and being located in District 20, Land Lot 0281, Parcels 4 and 33. Approval is subject to the final approval of Cobb County Department of Transportation allowing for the additional curb cut onto Barrett Parkway.

*** 20090651 Advertisement of Proposed Precinct Boundary Changes**

Motion authorizing advertisement of the proposed precinct boundary changes for Wards 2, 4 & 6 requested by the Cobb County Board of Elections.

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson*** 20090625 Alcohol Sales and Consumption during Art in the Park Festival**

Motion approving the request from the Marietta Business Association to approve the sale and consumption of beer and wine adjacent to Glover Park in accordance

with ordinance 10-4-070 C. and E. during the Art in the Park Festival show hours on September 5-7, 2009.

Council member Goldstein disclosed that he is a member of the Marietta Business Association.

Council member Goldstein abstains.

* **20090634 Farmer's Market**

Motion authorizing street closures for the Farmer's Market for the purposes of extending the season to Saturday, December 26.

5. Personnel/Insurance: Van Pearlberg, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

7. Public Works Committee: Jim King, Chairperson

20090630 2005 SPLOST Re-allocation

Motion authorizing a 2005 SPLOST project budget reallocation transferring \$1,846,307 funding from project number 280-2033-535-7930-A1, Powder Springs to South Cobb Connector to project number 280-2033-535-7957-P2, Powder Springs Streetscapes as shown on the attached table as requested by Council member Grif Chalfant.

* **20090710 South Marietta Parkway/Powder Springs St. and Whitlock Ave. 2005 SPLOST Improvements**

Motion approving a concept drawing for 2005 SPLOST improvements along South Marietta Parkway between Powder Springs Street and Whitlock Avenue as shown on map on file with the Public Works Department labeled "Approved July 8, 2009."

Council member Goldstein disclosed that he owns property fronting South Marietta Parkway between Mill Street and Polk Street and fronting on Mill Street.

Council member Goldstein abstains.

* **20090711 South Marietta Parkway between Whitlock Ave. and Polk Street 2005 SPLOST Improvements**

Motion approving a concept drawing for 2005 SPLOST improvements along South Marietta Parkway between Whitlock Avenue and Polk Street as shown on map on file with the Public Works Department labeled "Approved July 8, 2009."

Council member Goldstein disclosed that he owns property fronting South Marietta Parkway between Mill Street and Polk Street and fronting on Mill Street.

Council member Goldstein abstains.

* **20090712 South Marietta Parkway between Polk St. and Kennesaw Ave. 2005 SPLOST Improvements**

Motion approving a concept drawing for 2005 SPLOST improvements along

South Marietta Parkway between Polk Street and the Kennesaw Avenue Overpass as shown on map on file with the Public Works Department labeled "Approved July 8, 2009."

20090632 Theatre in the Square

Motion approving a request by Theatre in the Square to encroach on city right-of-way to support three (3) columns to support a new building facade and marquee (each column shall encroach into the sidewalk by 18" and shall have footings underneath the sidewalk which shall encroach 24". Approval is also granted for an existing encroachment at the location of the box office of 24". This approval is conditioned upon the receipt of Indemnity Agreements approved by the City Manager and City Attorney. This item was requested to go on the agenda by Mayor Bill Dunaway.

Council Goldstein disclosed that he is the owner of property occupied by Theatre in the Square, Inc. and Landlord for Theatre in the Square, Inc. As such, he abstains from matters dealing with this issue.

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

OTHER BUSINESS:

- * **20090666 Department of Justice Grant**
Budget Amendment for Stimulus Grant from the United States Department of Justice in the amount of \$230,918.00.
- * **20090698 Marietta Redevelopment Corporation Officers**
Request for approval of appointments for Ron Francis as Chairman and Terry Lee as Vice Chairman of the Marietta Redevelopment Corporation, as recommended by the Board.
- 20090705 Smoking in Glover Park**
Approval of an Ordinance adding Section 10-4-210 of the code of Marietta, Georgia, "Smoking Prohibited". Section 1: Section 10-4-210 shall read as follows:
It shall be unlawful for any person to inhale, exhale, burn, or carry any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or form in Glover Park.
- 20090726 Personnel Rules and Regulations - Smoking Policy**
Approval of an Ordinance amending City Code Sections 4-4-36-030 so as to update the Smoking Policy in the Personnel Rules and Regulations.
- 20090468 V2009-13 Saima Ahmed 68 Black Street**
V2009-13 [VARIANCE] SAIMA AHMED request a variance for property located in Land Lot 12150, 16th District, Parcel 0690, 2nd Section of Cobb County, Marietta, Georgia and being known as 68 Black Street. Variance to allow impervious surface encroachment within a required planted border area. Ward 5.

20090616 V2009-14 Steven R. Smith, CB Richard Ellis, 1860 Cobb Parkway South

V2009-14 [VARIANCE] STEVEN R. SMITH, CB RICHARD ELLIS (FOR VOLKSWAGEN GROUP OF AMERICA) request variance for property located in Land Lot 710, District 17, Parcel 040, 2nd Section of Cobb County, Marietta, Georgia and being known as 1860 Cobb Parkway South. Variance to allow a nonconforming sign to remain on a parcel in which there will be a renovation of the primary structure exceeding 50% of its replacement cost. Ward 1.

*** 20090660 V2009-15 Gabriel's Desserts/Candler Development 800 Whitlock Ave, Suite 135**

V2009-15 GABRIEL'S DESSERTS/CANDLER DEVELOPMENT request a variance for property located in Land Lot 12240, 16th District, Parcel 0560, 2nd Section of Cobb County, Marietta, Georgia and being known as 800 Whitlock Avenue. Variance to reduce the required number of parking lot trees by one. Ward 4.

Council member Walquist opposed.

20090724 317 N. Fairground Street

Motion to authorize the acquisition of property owned by Ms. Jessie Edward Wheatcroft on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

20090725 690 Powder Springs Road

Motion to authorize the acquisition of property owned by RS of Georgia on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

*** 20090709 BLW Actions of July 6, 2009**

Review and approval of the July 6, 2009 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

ADJOURNMENT: